

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA, )  
                                  )  
Plaintiff,                    )  
                                  )  
vs.                            )                                    Cr. No. 05-1849 JH  
                                  )  
DANA JARVIS,                )  
                                  )  
Defendant.                    )

**ORDER FOR PRIVATE JUDICIAL INTERLOCUTORY SALE  
OF REAL PROPERTY AND PREMISES AND LIQUOR LICENSE 2599**

This matter is before the Court on the United States' Motion For Interlocutory Sale. The Court finds that the real property located at 3523 Central NE, Albuquerque, New Mexico, and New Mexico liquor license number 2599 are subject to waste , deterioration and decay. The Court is authorized, upon application of the United States, to "take any...action to preserve the availability of property...for forfeiture." 21 U.S.C. § 853(e)(1)(A), incorporated by 18 U.S.C. § 982(b)(1).

The Court further finds, pursuant to 28 U.S.C. § 2001(b), that the best interests of the estate will be conserved by a private sale of the defendant property rather than a public sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1.       The United States Marshals service shall immediately seize and take into custody the real property and the liquor license. The United States Marshals Service is authorized to take all reasonable steps it deems necessary to protect and preserve the property.
2.       The defendant real property and premises, including improvements and fixtures thereon appurtenances thereto, as more fully described in the United States' Motion for

Interlocutory Sale, incorporated herein by reference, and liquor license 2599 shall be sold as provided by 28 U.S.C. §§ 2001(b) and 2004.

3. The United States Marshals Service is authorized to retain a licensed, certified real estate broker, who shall be paid the usual and customary commission and/or fees from the proceeds of the sale.

4. The following three disinterested appraisers are hereby appointed by the court to appraise the fair market value of the defendant property:

A. \_\_\_\_\_.

B. \_\_\_\_\_.

C. \_\_\_\_\_.

The appraisers shall submit their appraisal reports to the United States Marshals Service no later than \_\_\_\_\_.

5. No private sale shall be confirmed at a price less than two-thirds of the appraised value of the property, as determined by the court.

6. The terms and conditions of the sale shall be as follows:

(a) The sale shall be for cash;

(b) The defendant property shall be sold subject to the following mortgages or liens:

I. The Note held by First State Bank of New Mexico, including principal and interest (at the contractual rate) due until the date of payment..

7. The United States Marshals Service shall publish the terms of the highest and best contract of sale offered for the real property and the liquor license in the Albuquerque

Journal, a newspaper of general circulation at least ten days before confirmation.

8. Such private sale shall not be confirmed if a bona fide offer is made which guarantees at least ten percent over the price offered in the private sale.

9. Any bona fide offer (over bid) that guarantees at least a ten percent increase over the price offered in the private sale, as published in the newspaper, shall be made in the same terms and conditions as ordered by the court herein. Such over bid shall be reported by the United States Marshals Service as the sale price without the need of further publication for confirmation by the court.

10. Thereafter, the United States Marshals Service shall file its report of sale, along with the reports of the appraisers. The report of sale shall include a statement of the highest and best offer of contract of sale, and the highest and best over bid, if any, for consideration by the court.

11. Upon the confirmation by the court of the private sale, the United States Marshals Service shall execute the contract of sale on the terms ordered by the court; proceed to consummate the sale and shall issue a deed without covenants or warranties, expressed or implied, to the buyer at such private sale.

12. From the proceeds of the sale, the United States Marshals Service shall pay any real estate commission, closing costs, and other selling expenses; all outstanding state and local taxes prorated to the date of the sale; all costs incurred by the United States Marshals Service to maintain the property and the indebtedness owed to First State Bank of New Mexico on its Note secured by the property.

13. The remaining net proceeds shall be deposited in United States Marshals Seized Asset Deposit Fund and shall be substituted as the *res* in this action.

14. The sale of the defendant property shall not be confirmed if the net proceeds of the sale fail to equal or exceed any expenses of the sale and any mortgages, liens, or taxes encumbering the defendant property.

SO ORDERED, this \_\_\_\_\_ of \_\_\_\_\_, 2006.

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HONORABLE JUDITH C. HERRERA  
United States District Judge

SUBMITTED BY:

Stephen R. Kotz  
Assistant United States Attorney